

DRAFT
ORDINANCE NO. 2022-352

AN ORDINANCE TO AMEND TITLE 8 OF THE WALDEN MUNICIPAL CODE TO ESTABLISH ON-PREMISES LIQUOR REGULATIONS

WHEREAS, the sale of retail package liquor was approved by the voters of the Town of Walden at the November 2022 referendum election; and

WHEREAS, currently the ordinances of the Town of Walden do not permit or regulate on-premises sales of intoxicating liquors; and

WHEREAS, the Board of Mayor and Alderman desire to be in compliance with state statutes regarding such liquor sales

NOW, THEREFORE, BE IT ORDAINED by the Town of Walden, Tennessee, that:

SECTION 1. Title 8 of the Walden Municipal Code is amended to add a new Chapter 3, as follows:

INTOXICATING LIQUORS FOR CONSUMPTION ON PREMISES

2-301. Subject to certain statutes and regulations.

2-302. Terms defined.

2-303. Intoxicating liquors for consumption on premises.

2-304. Regulations and prohibited practices.

2-305. Revocation of beer permit reported to ABC.

2-306. Prohibited sexual or pornographic conduct.

2-307. Privilege taxes.

2-308. Violations; penalty.

2-309. Ordinance cumulative and supplemental.

2-310. Special event permit to allow wine consumption and sale **on certain public property**.

2-301. Subject to certain statutes and regulations.

(1) The general provisions of the state law relating to intoxicating liquors as contained in Tennessee Code Annotated, § 57-4-101, et seq., are hereby adopted as part of this chapter and by reference are fully incorporated in this chapter.

(2) Various rules and regulations promulgated from time to time by the Tennessee Alcoholic Beverage commission and Department of Revenue regarding the sale of intoxicating liquors for consumption on premises are hereby adopted as a part of this chapter and by reference are fully incorporated herein.

(3) It shall be unlawful to sell wine and other alcoholic beverages as defined in Tennessee Code Annotated, § 57-4-102 to be consumed on the premises of any hotel, commercial passenger boat company, restaurant, commercial airlines, passenger trains, premiere type tourist resort or club, convention center, historic performing arts center, permanently constructed facility within an urban park, any historic interpretive center, community theater, historic mansion house site, any restaurant in the terminal building of a commercial air carrier airport, any zoological institution, any museum, within the corporate limits of the Town of Walden, Tennessee, except as provided by title 57, Tennessee Code Annotated and by the rules and regulations promulgated thereunder, and as provided in this chapter.

2-302. Terms defined. The definitions set forth in Tennessee Code Annotated, § 57-4-102 and the definitions set forth or incorporated into Town of Walden code section 2-102, are hereby incorporated herein as if copied verbatim in their entirety.

2-303. Intoxicating liquors for consumption on premises. (1) A licensee holding a license for selling intoxicating liquors for consumption on the premises of a restaurant shall provide at least one automobile parking space for each two seats in licensee's place of business.

(2) The foregoing notwithstanding wine as defined by the State of Tennessee may be offered for purchase and consumption by holders of a special event permit described in § 2-310 within the area(s) defined by said special event permit.

2-304. Regulations and prohibited practices. It shall be unlawful for any person, firm or corporation holding a license to sell intoxicating liquors for consumption on the premises to violate the rules, regulations, and prohibited practices set forth in Tennessee Code Annotated, § 57-4-201 and 57-4-203, which code sections are incorporated herein as if copied verbatim in their entirety.

2-305. Revocation of beer permit reported to ABC. When any person, firm, or corporation holds both a license to sell intoxicating liquors for consumption on the premises and a beer permit, should the beer permit be revoked or suspended, the city recorder is hereby directed to send a certified copy of the revocation to the Alcoholic Beverage Commission pursuant to Tennessee Code Annotated, § 57-4-202(b). In addition, when the beer board is considering the suspension or revocation of such beer permit, consideration shall also be given to suspending the licensees' license for sale of intoxicating liquors for consumption on the premises as provided in Tennessee Code Annotated, § 57-4-202. Said beer board shall have the authority to suspend the liquor license of any such person, firm, or corporation as authorized by Tennessee Code Annotated, § 57-4-204.

2-306. Prohibited sexual or pornographic conduct. Tennessee Code Annotated, § 57-4-204 is incorporated herein as if copied verbatim in its entirety. The Hamilton County Sheriff's

Department is hereby authorized and directed to investigate and police the places of business holding a license to sell intoxicating liquors for consumption on premises and shall report violations to the Alcoholic Beverage Commission as authorized by Tennessee Code Annotated, § 57-4-204(e).

2-307. Privilege taxes. (1) There is hereby imposed for the privilege of selling alcoholic beverages for consumption on the premises a tax in the amount specified by Tennessee Code Annotated, § 57-4-301(b)(2).

(2) The foregoing taxes shall be payable on the date the license is issued by the commission and the foregoing taxes shall be prorated from said date of issuance until the next following October 1, at which time, a full year's taxes shall then be due and immediately payable. If any licensee shall fail to pay the initial privilege tax or any annual taxes due each October 1, there shall be imposed a penalty in the amount of five percent (5%) from each month of delinquency or part thereof not to exceed a total of twenty-five percent (25%), provided however each licensee shall have thirty (30) days from the due date before any penalty starts to accrue, interest on the taxes shall accrue at the rate of twelve percent (12%) per annum until paid.

(3) All penalties imposed by this section and taxes provided by this section may be collected as other taxes payable to the Town.

(4) Should the licensee also hold a beer permit issued by the Town, a failure to pay taxes under this section shall constitute grounds for suspension or revocation of the beer permit. Repeated violations of this section will constitute grounds for permanent revocation of a beer permit.

2-308. Violations; penalty. Any violations of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not less than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify said conviction, whether on appeal or not, directly to the Tennessee Alcoholic Beverage Commission.

2-309. Ordinance cumulative and supplemental. That the provisions of this ordinance shall be cumulative and supplemental to any other ordinance or law now existing or hereafter enacted; and it is not the intent of the Board of Mayor and Aldermen by enacting this Ordinance to repeal by implication any other ordinance or law not existing or hereafter enacted.

2-310. Special event permit to allow wine consumption and sale on certain public property. In addition to all the other provisions of this chapter:

(1) Application. Applicants for a special event permit shall make application no later than thirty (30) days and no earlier than one (1) year in advance of the beginning of the event for which the special event permit is sought. Application shall be made by completion of an application form approved by the city administrator together with all required supplemental documents and an application fee of one hundred dollars (\$100.00) except for events for which a Class C beer permit is also sought and the application fee for such Class C beer permit has been paid, in which case there shall be no application fee for a special event permit. The applicant shall provide at a minimum the following information:

- (a) Time of the event.
- (b) The sponsor of the event.
- (c) A brief description of the event.
- (d) The specific location and boundaries where wine will be permitted.
- (e) Any plans for temporary closure of streets, sidewalks, alleys and other rights-of-way.
- (f) Plans for safety, security and policing of the event.
- (g) The anticipated number of persons attending the event.
- (h) Plans for cleanup during and after the event. (i) Plans for inspections.
- (j) Plans for sanitary facilities. (k) Plans for safety inspections as determined needed by the fire department.
- (l) A written indemnification agreement wherein the applicant agrees to indemnify and hold harmless the Town of Walden, its officials and employees from claims resulting from the event.
- (m) Pertinent information regarding the required general liability insurance.
- (n) Written permission of the owner of the property as to the event and the location where beer will be permitted; together with any restrictions imposed by the property owner. Such written permission shall be conditioned upon the issuance of a special event permit and the use of a properly licensed caterer or the issuance of a special occasion license issued by the Tennessee Alcoholic Beverage Commission for each twenty-four (24) hour period in which wine will be offered for purchase or consumption
- (o) Identification of the source of all wine to be sold, given or served; which source must be a licensee as provided pursuant to state law.
- (p) For catered events, identity of caterer and proof of a caterer license issued by the Tennessee Alcoholic Beverage Commission.
- (q) Proof of all applicable business licenses.

Upon receipt of a completed application, together with the application fee, the application shall be placed upon the agenda of the next regularly or specially scheduled meeting of the beer board provided the application is received prior to the cutoff time for the published agenda. The applicant shall send one or more knowledgeable representatives to the meeting of the beer board to address any questions or issues which may arise pertaining to the applicant, the application or the event.

(2) Insurance . The permit holder shall provide general liability insurance, including appropriate coverage for the serving of wine at the event, with coverage for personal injury, death, and property damage arising out of, in any way related to, the event in the minimum amount of one

million dollars (\$1,000,000.00) combined single limit. Such insurance include contractual indemnification coverage and shall be in a form acceptable to the city administrator and the town's insurer and shall include an endorsement naming the town as an additional insured under the coverage afforded, shall be primary and noncontributing with respect to any other insurance available to the town, shall contain a severability of interest (cross liability) clause, and shall require the insurer to provide to the town at least thirty (30) days prior notice of cancellation. Proof of such insurance, also in a form satisfactory to the city administrator and the town's insurer shall be filed with the city administrator at least one (1) week prior to event.

(3) Permitted locations. Special event permits shall only be issued for (particular areas of the town: McCoy Farm and Gardens, Bachman Community Center, Walden's Ridge Civic League, etc).

(4) Number and length of events. Events at which a special event be issued shall be limited to a total of 12 events per year with each event having a maximum duration of seventy-two (72) hours. The number of permits to be issued per event shall rest in the sound discretion of the beer board. In the event, there are more qualified applicants than the number of permits allowed then the permits shall be issued to qualified applicants in the order that complete and proper applications were filed.

(5) Permitted hours, days. Wine sales shall not exceed (8) hours in any one day. No sales, service or consumption shall be permitted between the hours of 11:00 P.M. and 10:00 A.M.
Took out Sundays until 1pm

(6) Container limitations. No wine shall be served in a container with a capacity larger than sixteen (16) fluid ounces nor shall any wine be served or consumed in any container other than a container supplied by permit holder. Standard bottles of wine may be offered provided that consumption shall be from a container as described above.

(7) Miscellaneous provisions. A special event permit where wine will be served other than by a properly licensed caterer shall be conditionally issued and shall be of no effect without the issuance of a special occasion license by the Tennessee Alcoholic Beverage Commission for each twenty-four (24) hour period in which wine will be offered for purchase or consumption for such event and location. The beer board in its discretion may require as a condition of the issuance of a special event permit the posting of a bond to cover the cost of any obligation undertaken by the applicant with respect to the town. The beer board may deny a permit for a two (2) year period to any applicant based solely upon the adverse outcome/consequences of any prior special event permit or Class C permit held by such applicant. The beer board shall apply the same standards as applied by the Alcoholic Beverage Commission for determining whether or not an applicant is a bona fide charitable or nonprofit organization. Caterers included in the special event permit application shall possess and maintain proper licensure with the Tennessee Alcoholic Beverage Commission for the duration of the applicable event. A permit holder shall be responsible to clean, repair and restore the property upon which the applicable event is held except to the extent the agreement with the government agency managing the property obligates another. Nothing herein shall require the town or a public agency to grant permission allowing

the use of property under its control nor prohibit the town or such public agency from imposing additional requirements or limitations as a condition of granting permission. The town administrator shall have the authority to develop, implement and enforce such written rules and regulations consistent with the intents and purposes of this ordinance as he deems necessary to implement the special event permit provisions of this ordinance, including without limitation an application form.

(8) Penalty--violation of this § 2. The penalty provisions of § 3-308 shall apply to § 3-310, including the consumption or possession of wine by any person outside the area designated in the special event permit unless such is otherwise permitted by law.

SECTION 2: NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF WALDEN, TENNESSEE that this Ordinance be effective upon publication, the public welfare requiring the same.

First Reading: 12/13/2022

YEA:

NAY:

Second Reading: 1/10/2023

YEA:

NAY:

Mayor

Town Recorder